

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JESSE PAYNE,

Plaintiff,

Case No. 13-cv-13561  
Hon. Matthew F. Leitman

v.

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

---

**ORDER ADOPTING REPORT AND RECOMMENDATION**  
**(ECF #23) AND GRANTING PLAINTIFF'S MOTION**  
**FOR ATTORNEY FEES (ECF #21)**

On September 30, 2014, this Court entered a judgment in favor of Plaintiff Jesse Payne ("Payne") remanding this action to Defendant the Commissioner of Social Security (the "Commissioner") for further administrative proceedings. (*See* ECF #20.) Payne has now filed a motion for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A) (the "Motion for Attorney Fees"). (*See* ECF #21.) Payne requests fees of \$7,800.61. (*See id.*)

On August 14, 2015, Magistrate Judge R. Steven Whalen issued a Report and Recommendation (the "R&R") in which he recommended that the Court grant in part the Motion for Attorney Fees, reducing Payne's requested fees by \$806.44 to \$6,994.17. (*See* ECF #23.) The Magistrate Judge also recommended that the

Court award Plaintiff a filing fee in the amount of \$400.00. (*See id.*) The R&R stated that the parties could seek review of the recommendation if they filed written objections within fourteen days. (*See id.* at 6, Pg. ID 452.)

Neither party has objected to the R&R. Failure to file objections to the R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *see also Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court has nevertheless reviewed the R&R and agrees with the findings and conclusions of the Magistrate Judge.

Therefore, **IT IS HEREBY ORDERED** that the Magistrate Judge's August 14, 2015, Report and Recommendation (ECF #23) is **ADOPTED** as the Opinion of this Court and that the Motion for Attorney Fees (ECF #21) is **GRANTED IN PART AND DENIED IN PART**.

**IT IS FURTHER ORDERED** that Payne is awarded attorney fees in the amount of \$6,994.17 No later than 14 days from the date of this order, the Commissioner shall determine whether Payne owes the Government a pre-existing debt. If no such debt is owed, then payment of the fees shall be made directly to Payne's attorney. If Payne does owe a pre-existing debt, the fees shall be offset by the amount of the debt, with any remainder to be paid to Payne's attorney.

**IT IS FURTHER ORDERED** that Plaintiff is awarded a filing fee in the amount of \$400.00.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: August 31, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 31, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(313) 234-5113